APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,333	12/15/2003	Nagalinga Durga Prasad Sripathi Panditharadhya	MSFT-2754/304830.01	3726

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EXAMINER
HUYNH, CONG LAC T

ART UNIT	PAPER NUMBER
2178	

DATE MAILED: 07/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

		Application No.	Applicant(s)
		10/736,333	PANDITHARADHYA ET AL.
Office Action Summary		Examiner	Art Unit
		Cong-Lac Huynh	2178

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>03 May 2006</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-20</u> is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-20</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a)☐ All b)☐ Some * c)☐ None of:

　　　1.☐ Certified copies of the priority documents have been received.

　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

1.   This action is responsive to communications: amendment filed 5/3/06 to the

application filed on 12/15/03.

2.   Claims 1-20 are pending in the case. Claims 1, 5, and 13 are independent

claims.

3.   The rejections of claims 1-2, 4 under 35 U.S.C. 103(a) as being unpatentable

over Olsen in view of Hohmann have been withdrawn in view of the amendment.

Claim Rejections - 35 USC § 101

4.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
> matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
> conditions and requirements of this title.

5.   Claims 5-12 remain rejected under 35 U.S.C. 101 because the claimed invention

is directed to non-statutory subject matter.

Claims 5-12, as amended, are directed to a computer readable medium having stored

thereon an editor for defining an XML schema. Said editor is non-statutory since it is a

non-functional descriptive material as rejected in the previous office action.   The non-

functional descriptive material, even though is stored in a computer readable medium, is

still a non-statutory subject matter, according to MPEP 2106:

> *"Both types of "descriptive material" are nonstatutory when claimed as descriptive*
>
> *material per se. Warmerdam, 33 F.3d at 1360, 31 USPQ2d at 1759. When functional*
>
> *descriptive material is recorded on some computer-readable medium it becomes*

structurally and functionally interrelated to the medium and will be statutory in most

cases since use of technology permits the function of the descriptive material to be

realized. Compare In re Lowry, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed.

Cir. 1994) (claim to data structure stored on a computer readable medium that

increases computer efficiency held statutory) and Warmerdam, 33 F.3d at 1360-61, 31

USPQ2d at 1759 (claim to computer having a specific data structure stored in memory

held statutory product-by-process claim) with Warmerdam, 33 F.3d at 1361, 31 USPQ2d

at 1760 (claim to a data structure per se held nonstatutory). **When nonfunctional**

descriptive material is recorded on some computer-readable medium, it is not

statutory since no requisite functionality is present to satisfy the practical

application requirement. Merely claiming nonfunctional descriptive material

stored in a computer-readable medium does not make it statutory. *Such a result*

would exalt form over substance."

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7.   Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Olsen (US Pat App Pub No 2004/014862, 7/29/04, filed 1/27/03) in view of Hohmann et

al. (US Pat App Pub No 2005/0256965, 11/17/05, priority 4/7/00) and Fuh et al. (US Pat

App Pub No 2004/0073870, 4/15/04, priority 10/15/02).

Regarding independent claim 1, Olsen discloses:

- including nodes within said XML schema to define characteristics of the non-XML

  data stream (figures 2B, 5A-B, [0025], [0026])

Olsen does not disclose:

- receiving said non-XML data stream

- parsing said non-XML data in accordance with information contained in said

  nodes

- creating said XML instance containing said input data

Hohmann discloses:

- receiving said non-XML data stream ([0295]: receiving non-XML document)

- parsing said non-XML data in accordance with information contained in said

  nodes ([0295], figure 16)

- creating said XML instance containing said input data ([0295])

It would have been obvious to one of ordinary skill in the art at the time of the invention

was made to have combined Hohmann into Olsen since Hohmann discloses generating

a XML instance via a XML data from a non-XML data providing the advantage to

incorporate into the XML schema for the input data in Olsen for obtaining a XML

instance for some input data according to a XML schema.

Olsen and Hohmann do not disclose:

- annotating the nodes with property information pertaining to the schema level of

  the nodes

Fuh discloses annotating the XMLschema with said nodes with property information

pertaining to the schema level of the nodes ([0026], [0029]-[0030], [0036]).

It would have been obvious to one of ordinary skill in the art at the time of the invention

was made to have combined Fuh into Hohmann and Olsen for the following reason.

Fuh discloses annotating the XML schema with nodes with property information

pertaining to the schema level of the node, thus motivating to include in the presentation

of the XML schema in Hohmann and Olsen to provide a XML schema understandable

with explanatory notes.

Regarding claim 2, which is dependent on claim 1, Olsen discloses defining, in said

XML schema, delimiters, TagNames, positional information within said non-XML data

stream (figures 2B, 5A-B).

Regarding claim 3, which is dependent on claim 1, Olsen and Hohmann does not

disclose annotating said XMLschema with said nodes in accordance with standard

conventions applicable to an XSD schema.

Fuh discloses annotating the XMLschema with said nodes in accordance with standard

conventions applicable to an XSD schema (figures 3-4, [0007], [0026], [0029]-[0030],

[0036]).

It would have been obvious to one of ordinary skill in the art at the time of the invention

was made to have combined Fuh into Hohmann and Olsen for the following reason.

Fuh discloses annotating the XML schema with nodes in accordance to an XSD

schema providing the advantage to include in the XML schema in Hohmann and Olsen

for offering an easy understanding of a XML schema via annotations.

Regarding claim 4, which is dependent on claim 1, Olsen discloses that the non-

XMLdata comprises at least one of flat files, EDI files, and COBOL files (figs 2B, 5A-B).

8.   Claims 13-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Fuh et al. (US Pat App Pub No 2004/0073870, 4/15/04, priority 10/15/02).

Regarding independent claim 13, Fuh discloses:

-      providing assemblies containing implementation to extend a functionality of a

       schema compiler ([0029], [0035]: providing the Annotated Automation Encoding

       format with the addition of annotations, which is attributes for element nodes in

       the XML schema tree shows assemblies with implementation to extend a

       functionality of the XML schema compiler)

-      referencing definitions of interfaces for exposing extended functionalities to said

       schema editor (figures 3, 5)

-      annotating the XMLschema with said nodes with property information pertaining

       to the schema level of the nodes ([0026], [0029]-[0030], [0036])

Fuh does not explicitly disclose the schema editor. However, Fuh does teach the XML

schema compiler which receives XML schema definition as input and generates a

structured hierarchy for the XML schema definition and represents it in an annotated

tree ([0034]-[0036]).

It would have been obvious to one of ordinary skill in the art at the time of the invention

was made to have modified Fuh to include a schema editor since the feature in Fuh

implies that the schema is added with annotations, and thus modified. This suggests

that the XML schema compiler further has a role of an editor.

Regarding claim 14, which is dependent on claim 13, Fuh discloses that said extended

functionalities include additional properties added to elements and attributes of an XML

schema ([0029], figures 3, 5: additional attributes via annotations in the XML schema

tree shows additional properties added to elements of an XML schema).

Regarding claim 15, which is dependent on claim 14, Fuh discloses providing a property

manager that implements an interface to define custom properties for said elements and

attributes ([0035]: defining attributes of the element nodes where the attributes are

considered custom properties implies that there is a properties manager for performing

said function).

Regarding claim 16, which is dependent on claim 15, Fuh discloses storing said custom

properties within said XML schema (figure 3, #308).

Regarding claim 17, which is dependent on claim 15, Fuh discloses annotating said

XML schema to describe non-XML data streams (figure 3, [0040], [0041]).

Regarding claim 18, which is dependent on claim 15, Fuh discloses providing a

validator to validate said custom properties ([0047], [0048][0064], [0071], [0072]).

Regarding claim 19, which is dependent on claim 15, Fuh discloses providing an

instance generator for generating an instance of said XML schema (figure 5).

Regarding claim 20, which is dependent on claim 13, Fuh discloses annotating a

schema being edited by said schema editor to include information about said extended

functionalities ([0033]-[0035]: annotations for XML schema shows annotating a schema

which is edited to include attributes of sub-elements, which are considered information

about extended functionalities).

Conclusion

9.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

10.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

Murthy et al. (US Pat App Pub No 2003/0140308, priority 9/28/01).

Little et al. (US Pat App Pub No 2005/0125720, filed 12/9/03).

Lo (US Pat App Pub No 2005/0114405, filed 11/25/03).

Ballard et al. (US Pat App Pub No 2005/018553, filed 12/18/03).

Rothschiller et al. (US Pat App Pub No 2006/0117250, priority 2/28/03).

11.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Cong-Lac Huynh whose telephone number is 571-272-

4125. The examiner can normally be reached on Mon-Thurs (9:00-7:00).

        If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Stephen Hong can be reached on 571-272-4124. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Cong-Lac Huynh
Primary Examiner
Art Unit 2178
7/11/06